

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY



(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference BA9332PCT	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/US2005/012465	International filing date (day/month/year) 12.04.2005	Priority date (day/month/year) 13.04.2004	
International Patent Classification (IPC) or national classification and IPC INV. C07D231/16 A01N43/56			
Applicant E.I. DUPONT DE NEMOURS AND COMPANY			

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of 6 sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 7 sheets, as follows: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4.	This report contains indications relating to the following items: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input checked="" type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application
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Date of submission of the demand 10.02.2006	Date of completion of this report 11.05.2006
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Zellner, A Telephone No. +49 89 2399-8078 

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2005/012465

IAP5 Rec'd PCT/PTO 30 AUG 2006

Box No. I Basis of the report

1. With regard to the **language**, this report is based on
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-11, 13, 16-48	as originally filed
12, 14, 15	received on 10.02.2006 with letter of 05.01.2006

Claims, Numbers

1-15	received on 10.02.2006 with letter of 05.01.2006
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- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify):*
 - ☐ any table(s) related to sequence listing *(specify):*
 4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify):*
 - ☐ any table(s) related to sequence listing *(specify):*

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
☒ claims Nos. 7-11

because:

- ☒ the said international application, or the said claims Nos. 7-11 relate to the following subject matter which does not require an international preliminary examination (*specify*):

see separate sheet

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- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*).
- ☐ no international search report has been established for the said claims Nos.
- ☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:
- ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.
- ☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Preliminary Examining Authority in a form and manner acceptable to it.
- ☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b) and 13ter.2.
- ☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Preliminary Examining Authority in a form and manner acceptable to it.
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
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International application No.
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-15
Industrial applicability (IA)	Yes: Claims	1-6,12-15
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

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**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/US2005/012465

The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: WO 01/70671 A2 (E. I. DU PONT DE NEMOURS & CO., USA) 27 September 2001 (2001-09-27)
D2: WO 03/024222 A1 (E. I. DU PONT DE NEMOURS & CO., USA) 27 March 2003 (2003-03-27)
D3: WO 03/015518 A1 (E. I. DU PONT DE NEMOURS & CO., USA) 27 February 2003 (2003-02-27)
D4: WO 2004/067528 A (E.I. DU PONT DE NEMOURS AND COMPANY; HUGHES, KENNETH, ANDREW; LAHM, GE) 12 August 2004 (2004-08-12)
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The present application relates to anthranilamides and their use for controlling invertebrate pests.

The amendments filed with letters dated 04.01.2006 and 05.01.2006 were found to be in accordance with the requirements of Art. 19 PCT.

item III

Present claims 7-11 relate to methods of controlling an invertebrate pest. The treatment of a human or animal body is not excluded.

item V

1. Novelty (Art. 33(2) PCT)

Amended claim 1 now relates to compounds wherein R² is CN. Novelty can thus be acknowledged. The same applies to claims 2-15.

2. Inventive step (Art. 33(3) PCT)

It is not apparent at the present stage which technical effect is achieved by the particular substituent CN (see novelty). The technical problem to be solved can thus only be

considered as to provide alternative compounds to those disclosed in D1-D3. It would appear to be obvious for the skilled person to introduce further substituents or change substituents already present in compounds disclosed in D1-D3 in order to obtain alternative compounds. CN-substituents as such are suggested in D1 (p. 3, l. 16), D2 (p. 2, l. 28) and D3 (p. 2, l. 26). Their introduction in order to obtain compounds according to present claim 3 is thus not considered based on an inventive step. The application does not meet the requirements of Art. 33(3) PCT.

3. Industrial applicability (Art. 33(4) PCT)

Can be acknowledged for claims 1-6 and 12-15.

item VI

Document D4 was published after the priority date of the present application but before its international filing date. Its content would be considered as forming part of the state of the art if the priority of the present application was found to be invalid.

item VII

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D2 and D3 is not mentioned in the description, nor are these documents identified therein.